



Billing Code 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2018–N141; FXES11140800000–189–FF08EVEN00]

**Habitat Conservation Plan for Seven Species in the Santa Clara River Watershed;
Categorical Exclusion for Foothill Feeder Inspection and Maintenance Activities,
Los Angeles County, California**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application from Metropolitan Water District of Southern California for an incidental take permit under the Endangered Species Act. The permit would authorize take of the federally endangered unarmored threespine stickleback, arroyo toad, the federally threatened California red-legged frog, and non-listed Santa Ana sucker, western spadefoot, two-striped garter snake, and western pond turtle incidental to otherwise lawful activities associated with the inspection and maintenance of the Foothill Feeder

water conveyance pipeline in the draft habitat conservation plan prepared for the project. We invite public comment.

DATES: Written comments should be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: *To obtain documents:* You may download a copy of the draft habitat conservation plan and draft low-effect screening form and environmental action statement at <http://www.fws.gov/ventura/>, or you may request copies of the documents by U.S. mail (below) or by phone (see **FOR FURTHER INFORMATION CONTACT**).

To submit written comments: Please send us your written comments using one of the following methods:

- *U.S. mail:* Send your comments to Stephen P. Henry, Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003.
- *Facsimile:* Fax your comments to 805–644–3958.

FOR FURTHER INFORMATION CONTACT: Chris Dellith, Fish and Wildlife Biologist, 805–677–3308 (phone), or at the Ventura address in **ADDRESSES**.

SUPPLEMENTARY INFORMATION: We have received an application for an incidental take permit (ITP) pursuant to section 10(a)(1)(B) of the Endangered Species Act, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicant has developed a draft

habitat conservation plan (HCP) for the project that includes measures to mitigate and minimize impacts to seven covered species: the federally endangered unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*), a fish, and the arroyo toad (*Anaxyrus californicus*); the federally threatened California red-legged frog (*Rana draytonii*); and the non-listed Santa Ana sucker (*Catostomus santaanae*), a fish; western spadefoot (*Spea hammondi*), a toad; two-striped garter snake (*Thamnophis hammondi*); and western pond turtle (*Emys marmorata*). (The non-listed Santa Ana sucker (*Catostomus santaanae*) is federally listed as threatened outside of the area covered in the habitat conservation plan.) The permit would authorize take of any of these species incidental to otherwise lawful activities associated with the Foothill Feeder Inspection and Maintenance Activities HCP. We invite public comment on the application, the draft HCP, draft low-effect screening form, and environmental action statement.

Background

The unarmored threespine stickleback was listed by the Service as endangered on October 13, 1970 (35 FR 16047). The arroyo toad was listed by the Service as endangered on December 16, 1994 (59 FR 64859). The California red-legged frog was listed by the Service as threatened on May 23, 1996 (61 FR 25813). The Santa Ana sucker was listed by the Service as threatened, outside of the area covered by the draft HCP, on April 12, 2000 (65 FR 19686). The western spadefoot is currently under the Service's review for listing pursuant to the ESA (80 FR 37568). The two-striped garter snake is not federally listed, nor is it being considered for listing pursuant to the ESA at this time. The western pond turtle is currently under the Service's review for listing pursuant to

the ESA (80 FR 19259). Section 9 of the ESA and its implementing regulations prohibit the take of fish or wildlife species listed as endangered or threatened. “Take” is defined under the ESA to include the following activities: “[T]o harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct” (16 U.S.C. 1532); however, under section 10(a)(1)(B) of the ESA, we may issue permits to authorize incidental take of listed species. “Incidental take” is defined by the ESA as take that is incidental to, and not the purpose of, carrying out of an otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species are in the Code of Federal Regulations (CFR) at 50 CFR 17.32 and 17.22, respectively. Under the ESA, protections for federally listed plants differ from the protections afforded to federally listed animals. Issuance of an incidental take permit also must not jeopardize the existence of federally listed fish, wildlife, or plant species. The permittees would receive assurances under our “No Surprises” regulations ((50 CFR 17.22(b)(5) and 17.32(b)(5)) regarding conservation activities for the unarmored threespine stickleback, arroyo toad, California red-legged frog, Santa Ana sucker, western spadefoot, two-striped garter snake, and western pond turtle.

Applicant’s Proposed Activities

The applicant has applied for a permit for incidental take of the unarmored threespine stickleback, arroyo toad, California red-legged frog, Santa Ana sucker, western spadefoot, two-striped garter snake, and western pond turtle. Take is likely to occur in association with activities necessary to inspect and maintain the Foothill Feeder water conveyance pipeline. The covered area consists of approximately 22 river miles,

within the Santa Clara River watershed, of cottonwood-willow, transitional riparian, alluvial sage scrub, oak woodland, upland scrub, and aquatic habitat, which provides suitable habitat for the unarmored threespine stickleback, arroyo toad, California red-legged frog, Santa Ana sucker, western spadefoot, two-striped garter snake, and western pond turtle. The covered area has no designated critical habitat for the covered species. The HCP includes measures to minimize take of the covered species in the form of injury and mortality. Mitigation for unavoidable take of the species consists of creating, restoring, and enhancing up to 40 acres of cottonwood-willow, transitional riparian, alluvial sage scrub, oak woodland, upland scrub, and aquatic habitat.

Our Preliminary Determination

The Service made a preliminary determination that issuance of the incidental take permit is neither a major Federal action that will significantly affect the quality of the human environment within the meaning of section 102(2)(C) of NEPA (42 U.S.C. 4321 *et seq.*), nor will it individually or cumulatively have more than a negligible effect on the species covered in the HCP. The Service considers the effects of the taking of the covered species to be minor because project activities resulting in incidental take of the covered species would occur infrequently (approximately every 5 years over a period of several weeks), the applicant has proposed a series of measures to avoid and minimize impacts to the covered species, and the applicant has committed to creating, restoring, and enhancing up to 40 acres of occupied or otherwise suitable habitat for the covered species within the Santa Clara River watershed. Therefore, based on this preliminary determination, the permit qualifies for a categorical exclusion under NEPA.

Public Comments

If you wish to comment on the permit application, draft HCP, and associated documents, you may submit comments by one of the methods in **ADDRESSES**.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10 of the ESA (16 U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1506.6).

Dated: November 13, 2018.

Stephen P. Henry,
Field Supervisor,
Ventura Fish and Wildlife Office,
Ventura, California.

[FR Doc. 2018-25397 Filed: 11/20/2018 8:45 am; Publication Date: 11/21/2018]